IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8249 OF 2004

Vithal Gajanan Mhalunge & Ors. .. Petitioners

Versus

M/s.Emerald Woollen Mill Pvt.
Ltd. and Ors. .. Respondents.

M/s.Hutoxi Tavadia for petitioners
Mr.N.P.Deshpande for respondents
Mr.N.M.Joshi for respondent No.1.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.
DATE : 16TH OCTOBER 2004.

P.C.

1. Heard Advocates.

2. Petitioners have filed the present petition for a direction to the authorities

exercising powers under the Maharashtra Land Revenue Code to recover the amount under Recovery certificate issued in their favour.

3. It is the case of petitioners that they joined services of respondent No.1 sometime in 1978-79. On 4th March 1995 their services were terminated. On 9th June 2003, respondent No.3 passed an order in exercise of his powers under Payment of Gratuity Act, 1972 granting gratuity benefits to the petitioners.

4. It appears that respondent No.1 filed a review petition. That review application has also been rejected vide order dated 27th April 2004.

5. Recovery certificate has been issued on 24th March 2004. It appears that an appeal was preferred by respondent No.1 before respondent No.4 being the Appellate Authority. Respondent No.4 directed respondent No.1 to comply with requirements of depositing the determined amount failing which he informed that appeal would not be heard. It appears that instead of complying

with this direction, respondent No.1 wrote letters to Secretary, Department of Labour, Government of Maharashtra and respondent No.4.

6. It appears that concerned Desk Officer addressed letter to respondent No.4 requesting him to conduct proceedings and inform the outcome of the same to the said Department.

7. Grievance of petitioners is that there is no compliance of the direction of the Appellate Authority and therefore, there is no question of the appeal being adjudicated by it. The amount of gratuity being admittedly due and payable and recovery certificate having been issued in that behalf, respondent No.2 ought to have initiated proceedings in accordance with law to recover the amounts under the said certificate.

8. Having heard learned Counsel for parties we are of the view that once the Appellate Authority under the Payment of Gratuity Act has informed respondent No.1 that amount of gratuity has not been deposited, there is no question of the recovery under the Recovery certificate being

postponed or delayed in any matter. In the facts and circumstances of the present case, there is no question of keeping recovery in abeyance. Accordingly, we direct respondent No.2 to proceed and recover the amounts under the recovery certificate issued under section 8 of Payment of Gratuity Act, 1972 read with Rule 19 of Payment of Gratuity (Maharashtra) Rules 1972 in accordance with law as expeditiously as possible and in any event, within three months from today. We wish to emphasise that in such matters, the Collector ought to act promptly in order to recovery monies which are legitimately due and payable to employees like petitioners.

9. Petition disposed off. Respondent No.2 to act on a copy of this order duly authenticated by Court Sheristedar.

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